

CALIFORNIA  
CHILD ABDUCTION  
TASK FORCE  
SUMMARY REPORT  
Third Edition  
2003

**State of California**

**Governor's Office  
Of  
Criminal Justice Planning**

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**MISSION STATEMENT**  
**OF THE**  
**CALIFORNIA CHILD ABDUCTION TASK FORCE**

The mission of the California Child Abduction Task Force is to reduce the risk and incidence of child abduction and increase the effectiveness of a multidisciplinary response by enhancing skills, knowledge, and awareness of child abduction.

## **INTRODUCTION AND BACKGROUND**

Concerns about child abduction in California initially came to the attention of the Governor's Office of Criminal Justice Planning (OCJP) in 1997. After suffering the effects of multiple abductions resulting in murders between 1994-1997, various citizens in Central California appealed for statewide attention to the increasing number of child abductions.

In response, OCJP established an ad hoc committee of experts knowledgeable in the prevention of violence against children to identify prevalent issues in the area of child abduction. On June 12, 1996, the committee met in the San Francisco Bay area. The membership consisted of representatives of federal, state, and local law enforcement agencies, prosecutors from county district attorney offices, social service agencies, administrators from nonprofit community organizations, educators, and child advocates.

Numerous family abduction and non-family abduction issues were identified and reviewed. The issues were divided into two categories: those that dealt with policies and standards, and those that involved training. The Policy and Standards Subcommittee and the Training Subcommittee were formed. The subcommittees met to identify, clarify, and research the issues, and recommend solutions for the most crucial issues.

Since July 1998, the California Children's Justice Act Task Force has allocated funds to allow the committee to formally become the California Child Abduction Task Force. The California Child Abduction Task Force consists of members of the original ad hoc committee, and of new members all of whom are considered experts in child abduction prevention and/or intervention, who meet four times a year to maintain an ongoing review of current child abduction issues.

Since 1999, the California Child Abduction Task Force has presented seven regional trainings throughout California. These trainings have attracted over 1,000 participants, primarily professionals who are first responders to reports of child abduction. According to the Commission on Peace Officer Standards and Training (POST) training evaluations, participants have found the training worthwhile, as the trainings have provided relevant and pertinent information.

The California Child Abduction Task Force has focused on current issues impacting the effective response to and investigation of child abduction cases, and has conducted an ongoing review of priorities outlined in the first and second editions of the California Child Abduction Task Force Summary Report.

## **ACCOMPLISHMENTS AND FUTURE DIRECTION OF THE CALIFORNIA CHILD ABDUCTION TASK FORCE**

The California Child Abduction Task Force (task force), under the sponsorship of the Governor's Office of Criminal Justice Planning (OCJP), is in an excellent position to take a statewide view of how child abductions are handled in California. Its members hail from as far north as Redding and as far south as San Diego. They represent federal, state, and local law enforcement and prosecutorial agencies, private, non-profit missing children's agencies, and child protective services agencies. Their wide range of expertise and their shared perspectives on how to handle child abduction cases throughout the state provide the task force with an unparalleled vantage point from which to work.

The first and second editions of the California Child Abduction Task Force Summary Report outlined priorities and goals identified by the task force in its earlier years, and described the work done by the task force to address those priorities and meet those goals. The task force continues to assess the state's priorities and increase the effectiveness of a multidisciplinary response to child abductions.

During 2002, members of the task force played an instrumental role in the following key developments in the child abduction field:

- **AMBER Alert:** Recent tragedies involving the abduction of children have highlighted the importance of a cooperative effort among law enforcement agencies, media outlets, and the public to safely recover abducted children. On July 20, 2002, in response to this issue, Governor Davis implemented a statewide child abduction notification system. This system, the California Child Safety *AMBER* Network (CCSAN), is partially modeled after the original Amber Alert Program developed in 1996 following the abduction and murder of 9-year old, Amber Hagerman, in Arlington, Texas.

One of the most important components of this network is the statewide *AMBER* (America's Missing: Broadcast Emergency Response) Alert System. Following the passage of Assembly Bill (AB) 415, which became law on September 13, 2002, law enforcement agencies are required to activate the State Emergency Alert System (EAS) in response to an abduction of a child. The *AMBER* Alert System may be activated on a regional or statewide basis depending upon the circumstances of the abduction and when the following conditions are met:

- A confirmed abduction has occurred;
- The victim is 17 years of age or younger, or of proven mental or physical disability;
- The victim is reasonably believed by local law enforcement to be in imminent danger of serious bodily injury or death; and
- There is information available that, if disseminated to the general public, could assist in the safe recovery of the victim.

Members of the task force and their respective agencies were involved in the development and implementation of the statewide AMBER Alert System, which provides for the fast release of life saving information about abducted children by broadcasting information through the media and on changeable message signs on California highways. Since its inception, the AMBER Alert System has been activated on 26 occasions, and has resulted in the recovery of 32 abducted children some of whom were sibling groups. The California model is fast becoming the model for the nation. (For more information, log onto [www.chp.ca.gov](http://www.chp.ca.gov).)

**Child Abduction Prevention and Education Review Committee (CAPE):** Included in the provisions of AB 415 was a requirement for the review and development of child abduction prevention and education programs. Members of the task force were requested to join members of various disciplines in addressing abduction prevention issues. This group became known as the Child Abduction Prevention and Education Review Committee (CAPE), co-chaired by D.O. (Spike) Helmick, Commissioner, California Highway Patrol and Michael S. Carona, Sheriff, Orange County. Beginning August 2002, CAPE conducted a series of meetings addressing the various elements of prevention and education related to child abduction. In October 2002, the committee presented its findings and recommendations to Governor Davis in the CAPE report. In an effort to provide prevention and education resources to parents, school districts, and others responsible for the safeguarding of our children, the Governor directed various state agencies to implement recommendations contained in the report. The CAPE report will be made accessible on various state agency websites in the near future.

- **Legislation:** Members of the task force worked on child abduction prevention legislation that resulted in the enactment of California Family Code Section 3048 (see Appendix A). This statute requires family court judges in custody cases to assess whether there is a risk of parental kidnapping, and provides a checklist of risk factors to be considered. If a risk of parental kidnapping is found, the statute provides a list of measures that can be taken in an effort to deter or prevent an abduction. This may be the only child abduction prevention statute of its kind in the country.

The task force succeeded in fully accomplishing some of its previous goals and continues to actively pursue ongoing work and develop new projects. Some of these projects were:

- **Child Abduction and Risk Assessment Checklist for First Responders:** The task force created the Child Abduction Law Enforcement Field Packet, which includes a Child Abduction and Risk Assessment Checklist for use in the field by first responders to child abduction. It is designed to provide patrol officers, dispatchers, and other first responders with a tool to assist them in making an initial assessment of the inherent risks to the child, including the risk of injury or death, or of being transported outside California and/or the United States. It also includes the Child Abduction First Responding Officer Checklist, a basic guide to assist in the gathering of relevant data during the initial contact with the reporting party. Since December 2001, these checklists have been disseminated at the Child Abduction Intervention and Resource Training sessions. The checklists are available online through OCJP website at: [www.ocjp.ca.gov](http://www.ocjp.ca.gov) and through the California

Attorney General's Office website at: <http://justice.hdcdojnet.state.ca.us/clew> (California Law Enforcement Web).

- **Child Abduction Prevention Program:** OCJP funded three child abduction prevention pilot projects. These projects, with the assistance of educational development specialists, cooperatively developed prevention educational materials for children, as well as for parents, teachers, and service providers. "Safetysaurus" is a program for grades Kindergarten through sixth.

The child abduction prevention projects were instrumental in educating children and parents about the issues and risks associated with child abduction, helping to dispel the myths about child abduction, and providing parents and children with a proactive and empowering way to avoid and diffuse potential abduction situations. The three projects collaborated with each other and with law enforcement and other child-serving agencies throughout the state to train and successfully deliver child abduction prevention educational materials. The information distributed by the projects generated public awareness of child abduction by distributing information through media campaigns, speaking engagements, public service announcements, and campaigns promoting child participation.

### Ongoing Work

- **Regional Trainings:** The task force continues to conduct Child Abduction Intervention and Resource Training sessions throughout California. The trainings are designed to provide a multidisciplinary audience of first responders to child abductions with information about the resources available in California to assist them when a child is abducted. The presenters at these trainings are members of the task force who provide information about the assistance that can be provided by federal and state law enforcement agencies and by non-profit missing children agencies. The trainings have been well attended; each one has drawn an audience ranging from 80 to 125 attendees. Seven training sessions have been conducted to date, and more are planned for 2003 and 2004. The task force regularly evaluates and refines these trainings, and will incorporate different components based on feedback received from participants.

### Future Direction

- **Minimum Standards for Child Abduction Protocols:** One of the critical issues identified by the task force is most counties lack multidisciplinary written protocols for handling child abductions. Since California's 58 counties vary dramatically in size and character, and the agencies initially responding to child abductions are usually local, the task force recognized it would not be possible to create a model child abduction protocol that would be suitable for use in every county; therefore, each county would need to develop its own practices and protocol.



Nonetheless, to promote and aid each county's development of such a protocol, the task force is in the process of developing Minimum Standards for Child Abduction Protocols. This effort is in its initial information-gathering stage. In the first phase of this project, the task force has collected existing child abduction protocols from various local and national agencies, and has developed questionnaires to be disseminated to district attorney child abduction units, local law enforcement agencies, child protective service agencies, and missing children non-profit agencies. The task force will use the information obtained through these questionnaires in the development of recommended minimum standards. The second phase of this project will involve the dissemination of these minimum standards to counties through regional and county-based workshops.

## **A CALL TO ACTION**

For nearly 30 years, California's system for handling intrastate, interstate, and international child abductions has served as a model for the rest of the country. The pivotal element of California's system has been the statutory scheme requiring district attorneys to "take all actions necessary" to locate and return abducted children. District attorneys created child abduction units or designated personnel within each county office to specifically work on child abduction cases.

Over time, other states have begun to model their child abduction programs after California's system.

"California's innovative approach to custodial interference and abduction cases is now being more widely implemented. The Uniform Child-Custody Jurisdiction and Enforcement Act...includes several sections modeled on California law that give prosecutors and law enforcement in States that adopt the Act new flexibility and additional civil tools to help find and recover abducted children." (Janet Chiancone, Linda Girdner, & Patricia Hoff, *Issues in Resolving Cases of International Child Abduction by Parents*, *Juvenile Justice Bulletin*, December 2001, p.12.)

In a recommendation for improving the criminal justice system's response to parental kidnapping nationwide, a *Juvenile Justice Bulletin* specifically cites California Family Code Sections 3130-3134.5(see Appendix A) and recommends other states,

"...enact State statutes modeled after California's law and the Uniform Child-Custody Jurisdiction and Enforcement Act that authorize prosecutors to investigate and prosecute custodial interference complaints, including filing pleadings in civil or family court proceedings necessary for the abducted child's recovery." (The Criminal Justice System's Response to Parental Abduction, *Juvenile Justice Bulletin*, December 2001.)

California has also been a leader in resolving international parental kidnapping cases because of its effective implementation of an international treaty, The Hague Convention on the Civil Aspects of International Child Abduction, designed to secure the prompt return to their countries of habitual residence of children who have been parentally abducted across international borders. Its success in the international arena has been dependent upon the leadership provided by the California Attorney General's Office and the district attorney child abduction units' active

involvement in these cases. In March 2001, California's leading role has been recognized by the United States Department of State, and the California Attorney General's Office was a member of the United States delegation to a Special Commission Meeting which reviewed the operation of the Hague Convention on the Civil Aspects of International Parental Child Abduction.

Unfortunately, at the same time that the state has successfully instituted the AMBER Alert System, it has drastically cut the state funding available to reimburse the district attorney child abduction units for their work in fulfilling their mandated duty to take all actions necessary to locate and recover abducted children pursuant to California Family Code Sections 3130 et seq. For Fiscal Year (FY) 2000-2001, the state reimbursed the counties a total of \$13.58 million under the Child Abduction mandate. In FY 2001-2002, only \$1,000 per district attorney office was appropriated in the state budget for this mandate. Anticipating that next year's budget will again contain insufficient funds for this mandate, and that reimbursement will continue to be indefinitely deferred, many counties have already curtailed the level of service provided by their child abduction units.

Currently, funding is unavailable to continue the child abduction prevention programs in California. Statewide statistics for missing and abducted children are a sad reminder of the continuing need to provide children and their parents with accurate information and practical skills to help prevent this traumatic crime. One of the most effective ways to teach these skills is through direct interaction with children and adults by trained program staff and volunteers. Continued funding in this area will help to solidify the long-term cooperative relationships with schools previously served by the prevention programs, increase public awareness and education, and ultimately enhance collaborative community and statewide efforts to reduce the incidence of child abduction, and secure the return of those children who remain missing.

If adequate funding for the Child Abduction mandate and Child Abuse and Abduction Prevention projects is not reinstated, there will be many California children abducted and not recovered. Legislators must recognize the gravity of this problem and provide their support for:

- Adequate funding for district attorney child abduction units;
- Reinstatement of funding to train district attorney child abduction unit personnel;
- Better training for local law enforcement officers in family and non-family abductions; and
- Adequate funding for the child abduction prevention programs.

Because of the expertise developed in this state during three decades of ground-breaking child abduction work, and in light of the resources provided by the state to support this work, California has witnessed great success in recovering children abducted by family and non-family members. The great progress California has made in developing and maintaining an effective system for handling child abduction cases must not be abandoned. Continuing funding of the district attorney's child abduction units and the child abduction prevention projects is an absolute essential. The safety of California's children depends on it.

## CHILD ABDUCTION FACTS

Law enforcement, therapists, and other professionals in the field of child abduction are hindered by the limited availability of current research and statistics regarding child abduction in the United States. The most recent comprehensive study on the national incidence of missing, abducted, runaway, and throwaway youth was published by The U.S. Department of Justice in 2002. The *National Incidence Study of Missing, Abducted, Runaway, and Throwaway Children* (NISMART 2) Report used 1999 estimates of abducted children as its basis for reporting incident rates. Data was collected from six sources: household survey, juvenile facilities survey, returned runaway study, police records study, FBI data re-analysis, and community professionals study. Since different methodologies were used, the results of this study cannot be compared to the results of an earlier study known as NISMART 1 described in the previous editions of the California Child Abduction Task Force Summary Report.

NISMART 2 study objective was to estimate the incidence of children abducted by family and non-family members. The study defined family abduction as a situation in which a family member or person with a right of custody, takes a child in violation of a custody agreement or decree, or fails to return a child at the end of a legal or agreed-upon visit, with the child being away at least overnight.

The study defined non-family abduction as a situation in which a person without a right of custody coerces and, without authority, takes a child into a building or a vehicle for a distance of more than 20 feet.

Highlighted below are relevant facts about family and non-family abductions, according to the NISMART 2 study:

### **Family Abduction Facts (as defined by the NISMART 2 study) Include:**

- An estimated 203,900 cases of family abductions occur annually in the United States.
- Forty-three percent of the children who were victims of family abduction were not considered missing by their caretakers because the caretakers knew the children's whereabouts or were not alarmed by the circumstances
- Forty-four percent of family abducted children were younger than age 6.
- Fifty-three percent of family abducted children were abducted by their biological father, and twenty-five percent were abducted by their biological mother.
- Forty-six percent of family abducted children were gone less than one week, and twenty-one percent were gone one month or more.
- Only six percent of children abducted by a family member had not yet returned at the time of the survey interview.

- Child victims of family abduction have had their names and appearances altered, experienced medical or physical neglect, were subjected to homelessness, frequent moves, and unstable schooling.
- Children were often told lies about the abduction and the left-behind parent. Sometimes they were told the left-behind parent is dead. The children often become psychologically and emotionally distressed.
- Long-term effects vary, based on the degree of trauma involved in the abduction, the resiliency of the child, and whether follow-up support has been provided to help the child process the events of the abduction.

**Non-family Abduction Facts (as defined by the NISMART 2 study) Include:**

- An estimated 58,200 non-family abductions occur annually in the United States with an estimated 115 being stereotypical kidnappings.
- Stereotypical kidnapping is defined as a non-family abduction perpetrated by a slight acquaintance or stranger in which a child is detained overnight, transported at least 50 miles, held for ransom, or abducted with intent to keep the child permanently, or murdered.
- In forty percent of stereotypical kidnappings, the child was killed: in four percent, the child was not recovered.
- The most common victims are adolescent girls ages 11-14, and boys ages 6-9.
- Fifty-seven percent of children abducted by a non-family member were missing from caretakers for at least one hour; police were contacted to help locate twenty-one percent of the abducted children.
- Teenagers were by far the most frequent victims of both stereotypical kidnappings and non-family abductions.
- Nearly half of all child victims of stereotypical kidnappings and non-family abductions were sexually assaulted by the perpetrator.

**California Statistics (as defined by Department of Justice) Include:**

- An estimated 2,402 cases of family abductions occur annually in California.
- An estimated 54 cases of non-family abductions occur annually in California.
- An estimated 596 cases of suspicious circumstances occur annually in California.
- An estimated 5,069 cases of unknown circumstances occur annually in California.

- Of the 113,400 missing children in California, 45,067 were males and 68,333 were females, (includes the above number of cases, runaway cases, lost children cases, or children missing due to a catastrophe, such as missing after a plane crash, fire, flood, etc.); 74,352 returned on their own; 22,509 were located by law enforcement; 62 were found deceased; 2,037 were arrested; 123 were emancipated; 120 were voluntarily missing; 916 were withdrawn (i.e., report filed in error or reporting party withdraws report); 4,588 were listed as other (i.e., canceled for reasons other than listed above); and 94 were listed as unknown (i.e., the circumstances why the case was canceled are unknown).

## **THE IMPACT OF CHILD ABDUCTION**

### **Child Abduction is Child Abuse**

In each case of abduction, the child, the family, and the community are irrevocably changed by the tragedy of this form of child abuse. The task force views both family and non-family abductions as forms of child abuse. While the psychological trauma inflicted upon a child abducted by a non-family member is commonly acknowledged, abduction by a parent or other family member has long been minimized as having few serious consequences because the child knows the abductor. However, children who are abducted, whether by a family member or by a person unknown to the child, suffer serious psychological and emotional trauma.

An abducted child suffers rejection when the abductor tells the child his or her parent no longer loves or wants him or her, or, tells the child the parent is dead. The child suffers isolation when separated from parents, family, and friends and moved from place to place. An abductor often terrorizes the child when forcing the child into hiding, threatening with the fear if discovered, they will be killed. An abductor may neglect the child, denying proper nutrition, shelter, medical or dental care, clothing, and education. The child is harmed by an abductor who forces him or her to lie, live with a changed name and identity, and deceive authority figures. Children suffer from alienation when their feelings are programmed to be all positive toward the abductor and all negative toward the left-behind parent(s) or other family members.

The motives of family and non-family abductions may be quite different. Social deviancy, the need for power, and sexual arousal motivate the majority of “stranger” abductors. Receiving the most media coverage, these cases often end with the murder of the child. Media coverage is essential to recovery in these cases; homicides occur usually within a few hours of the abduction.

Due to media attention, the psychological consequences of non-family child abduction can extend far beyond the victim and family, to children and adults far removed from the actual crime. The case of Polly Klass is a perfect example as parents, teachers, and counselors can attest. School children across the country were not only concerned about Polly, but were

terrorized by the prospect that they too could be abducted. The consequences of the emotional stress and fear stay with children for long periods, sometimes indefinitely.

The motive for family abduction is usually revenge, anger, and the need for power over the other parent. This abduction often results when disputes over custody of a child cannot be resolved, with one parent taking the matter into his or her own hands. Children in this situation struggle with difficult feelings towards both parents including fear, guilt, shame, confusion, and divided loyalty. Children are often plunged into poverty and instability, a life of deprivation and neglect that is traumatic for the victim.

Even when children are recovered and reunited with their family, the trauma does not stop. Long-lasting effects include fearfulness and anxiety, fear of public places, fear of being around strangers, nightmares, poor concentration, underachievement in school, and mistrust of even familiar adults and family members. Children may stop growing emotionally, socially, and academically, and also experience regressive behaviors.

The California State Legislature acknowledged children who are abducted suffer trauma and has extended Victim Compensation Program (VCP) benefits to children who have experienced family or non-family abductions.

## **CHILD ABDUCTION HURTS MANY PEOPLE**

Real life stories emphasize the seriousness of child abduction incidents. The following are true cases of child abductions and are a testament to the emotional impact child abduction has on many parties, including the responding law enforcement agency:

### **CASE ONE**

On March 1, 2003, 14-year old Lindsey was abducted from her home in Jones, Michigan. Initial reports suggested that she had been taken by 56 year-old convicted murderer and kidnapper, Terry Drake. Drake, who is married, spent 16 years in prison after being convicted in 1977 of murdering a woman from Indiana. Drake and Lindsey met at a church and, without her parents' knowledge, corresponded over the Internet. The reports proved true; the pair fled Michigan heading west. Several days later, an AMBER Alert was initiated in California, due to rumors they might be camping along the Yuba River.

On March 9, 2003, the pair was sighted near Gila Bend, Arizona, where a truck driver helped them with a radiator problem with their truck. The trucker said he also noticed a rifle in the pickup. Drake told him they were headed to San Diego to hunt wild boar.

The pair had been spotted three times in remote, mountainous regions of the Sierra Nevada range between California and Nevada. A viewer reported the pair at a Jack-in-the-Box restaurant in Susanville, California, after the pair was featured on the “America’s Most Wanted” television program.

On March 23, 2003, a delivery truck driver spotted a truck resembling the one in which Drake and Lindsey were driving. He was making a delivery at a local convenience store approximately 15 miles south of Susanville, California when his suspicion was aroused. He noticed that although the truck was black, it was obviously freshly spray-painted, and the bed was still white. The clerk at the store noticed that the driver was heavily tattooed and paid for his \$20 gas bill in quarters. When the driver of the delivery truck recognized the mud smeared license plate, he placed a phone call to the Sheriff’s Department who transferred his call to the California Highway Patrol (CHP) in Susanville.

Hearing the broadcast of a possible sighting of the kidnapped child, CHP Officer Transue realized he was in the general area, and might be in a position to intercept the vehicle. Four minutes after the broadcast was made, CHP officers located the vehicle heading south on US-395 toward Reno, Nevada. They immediately stopped the truck. While Drake was handing Officer Transue his driver’s license, he stated he was the man they were looking for. Drake was taken into custody without incident.

Lindsey readily identified herself to the officers and was cooperative throughout the entire contact. Lindsey’s mother, Carol, was flown to Reno, Nevada on a private jet donated by Friendship Flights out of Goshen, Michigan. A CHP airplane met Carol in Reno and transported her to the Susanville Airport for a reunion with her daughter.

## **CASE TWO**

San Diego County authorities recovered a child from St. Louis, Missouri, thanks to a day care provider, a diligent district attorney investigator, and the resources of the National Center for Missing and Exploited Children. The abductor/father, Rohn Lockhardt, initially had been awarded custody of his daughter, and the child’s mother had been granted visitation. In June 2001, Mr. Lockhardt decided to leave with his daughter, telling the minor’s attorney he would not be returning the child. In subsequent court proceedings, the mother obtained full custody of her daughter, and an investigation into the child’s whereabouts ensued. District Attorney Investigator, Charlie Inot, was assigned the case. He had been receiving reports about the father’s dangerous behavior and previous threats of violence. He worked hard to find the child and followed every lead, but all leads were eventually exhausted.

On March 6, 2003, Investigator Inot received a phone call from a daycare worker in St. Louis, Missouri. The worker told him that a gentleman by the name of Rohn Lockhardt had come to the school to register his daughter. He was vague in some of his responses to questions about the history of the child and the location of the mother. After he left the school, the daycare worker was concerned about the father's behavior. Using her computer, she found the National Center for Missing and Exploited Children's website; entering the child's name, a poster with the pictures of both the child and father came up. She immediately called Investigator Inot with the information and he began making arrangements for the recovery of the child and the arrest of the father. The arrest and recovery were made; the mother flew to St. Louis, and successfully reunified with her daughter.

Not all cases of abducted children end in success. For the families of abducted children who never see their sons or daughters again, they will always wonder if their children are alive or dead, cared for or abused, leading a semi-normal life or one of enslavement to further abuse and degradation.



## **SIGNIFICANT CONCERNS ABOUT CHILD ABDUCTION**

The California Child Abduction Task Force identified common misconceptions and problematic issues related to child abduction. The following significant concerns are highlighted:

1. Child abduction is not uniformly considered to include both family and non-family abductions.
2. Child abduction by a family member is often perceived by law enforcement to present minimal risks to the child since the abducted child is with a family member.
3. Family child abduction cases present a high potential for physical injury and emotional trauma to the child, and are often considered to be civil cases when these should be considered criminal cases.
4. There are cases of homicide, suicide, and sexual assault, which began as child abductions, but were never recognized as cases of abduction and, consequently, were not reported as such.
5. Family abductions occurring within domestic violence situations often go unreported.
6. Current statistics do not adequately reflect the number of child abduction cases since incidents are often reported as “other types of crimes” that are not entered by law enforcement agencies, or are recorded as only “missing child” reports.
7. Law enforcement response time for family-related child abduction is generally given a lower priority when compared to the higher priority given to a non-family abduction.
8. There are no standardized law enforcement guidelines that include an objective assessment of the risk to the child, whether the abduction is by a family or non-family abductor.
9. The serious emotional and/or physical trauma of child abduction is often minimized and not viewed as child abuse.
10. Criminal sentencing often does not reflect the seriousness of the crime of family abduction.
11. Since there are no standardized approaches or “best practices” there is no uniformity as to how law enforcement should respond, or for district attorneys to prosecute child abduction cases.
12. All local, state, national, and international child abduction resources and assistance should be identified and maintained on a statewide system. (Internet capabilities could enhance this possibility.)
13. There is a need for an ongoing multidisciplinary task force to address the prevention, education, location, recovery, and reunification of abducted children.

Recognition of the above concerns led the task force to identify specific issues, recommendations, and action plans. Following is a summary of these topics:

## **ISSUE #1: UNIFORM DEFINITIONS**

**A lack of uniform definitions relating to child abductions results in:**

- inaccurate and underreported child abductions; and
- inappropriate criminal justice response to child abduction.

## **ISSUE #1A: FAMILY ABDUCTION IS NOT PROPERLY DEFINED AS CHILD ABDUCTION**

**Child abduction is not uniformly considered to include both family and non-family abductions.**

## **RECOMMENDATION**

Include non-family abduction and family abduction and concealment in the definition of “child abduction” for reporting purposes. These situations require a prompt assessment by law enforcement of the potential for harm to the missing child, as well as recognition of the potential for long-term emotional and psychological trauma.

Child abduction generally occurs when a child is taken, enticed away, kept, withheld, concealed, detained, arrested by means of force or fear, and carried into another country, state, county, or another part of the same county.

A family abduction is carried out by a person in a close family relationship to the child, inclusive of a biological and/or legal parent, or any other individual with a right of custody over the child. All other abductions are considered non-family abductions.

Criminal statutes define child abduction. In California, the family abduction provisions are set forth in California Penal Code Sections 277 to 280 (see Appendix B).

## **RESULTS**

- The California Department of Justice (DOJ) database allows law enforcement agencies to include both family and non-family abduction entries to be entered into the Missing Person System (MPS), which links the entries into the National Crime Information Center (NCIC) system.
- District attorney child abduction units are also permitted to access and enter data into the MPS system.

## **ISSUE #2: FAILURE TO URGENTLY RESPOND TO A FAMILY ABDUCTION AS A**

## **SERIOUS CASE**

**Family abductions are usually considered less urgent than non-family abductions by first responders.**

### **RECOMMENDATION**

Each case of child abduction must be immediately evaluated with the same standards for potential risk, danger, and harm to the child regardless whether the perpetrator is a family or non-family member.

### **RESULTS**

The task force developed the Child Abduction Law Enforcement Field Packet, which includes the Child Abduction and Risk of Danger to Child Assessment Checklist, and Child Abduction First Responding Officer Checklist. These are uniform evaluation instruments to be used statewide to assist first responders in making an initial assessment of whether an abducted child may be at risk of injury, death, or of being internationally abducted.

### **ISSUE #3: FAMILY ABDUCTIONS SEEN AS CIVIL RATHER THAN CRIMINAL**

**The United States Department of Justice, Federal Bureau of Investigation's current uniform crime reporting guidelines list California Penal Code Sections 278 and 278.5 as family support offenses. Many state and county crime charging guidelines use language, which characterizes family abductions as civil in nature. This misleads the criminal justice system and the public, minimizes the seriousness of the offense, and may result in a failure to respond or an inappropriate response, thereby increasing the danger to the minor(s). This is particularly true when requests for assistance are initiated to jurisdictions outside California.**

### **RECOMMENDATION**

Use uniform titles and language, which characterize Penal Code Sections 278 and 278.5 as criminal in nature on all official documents and publications as these relate to family and non-family child abductions.

### **FURTHER COURSE OF ACTION**

The task force will compose a letter to the United States Attorney General requesting an Executive Order to reclassify the arrest warrant class for Penal Code Sections 278 and 278.5 from "Family Offense" to "Criminal Abduction" for the purpose of entry into the NCIC.

### **ISSUE #4: A COHESIVE, CONSISTENT, AND EFFICIENT MULTI-JURISDICTIONAL RESPONSE SYSTEM TO CHILD ABDUCTION CASES IS NEEDED**

**Since child abductions frequently involve multiple law enforcement jurisdictions across local, state, national or international boundaries, there is a need to enhance the capacity for an**

**expeditious, collaborative multi-jurisdictional response by the professional system that deals with these crimes.**

#### **ISSUE #4A: LACK OF STATEWIDE CHILD CUSTODY ORDER REGISTRY**

**There is no statewide child custody order registry database. Since the custodial parent and the family abductor frequently live in different jurisdictions, a central registry is needed to document custody orders and make this information available to law enforcement.**

#### **RECOMMENDATION**

Include child custody orders in the existing domestic violence registry, or establish a statewide child support registry, and make this information accessible to law enforcement.

#### **RESULTS**

There remains a need for the development of a statewide custody order registry that can be readily accessible to law enforcement agencies. It is recognized that such a registry will require the development of a uniform custody order and a system for inputting the data and keeping it up-to-date.

#### **ISSUE #4B: THERE ARE NO POLICIES OR GUIDELINES TO CLARIFY JURISDICTIONAL ISSUES**

**Local law enforcement does not have consistent, clearly stated guidelines for resolving jurisdictional issues in child abduction cases often involving multiple agencies in different jurisdictions.**

#### **RECOMMENDATION**

Promote legislation to amend California Penal Code Section 784.5 and 279 et seq. (see Appendix B) to clarify which organization has jurisdiction to investigate and prosecute child abduction cases.

#### **RESULTS**

Legislation has not been advanced to clearly identify the principal county which is to undertake the investigation and prosecution of a child abduction case where multiple jurisdictions are involved. The general consensus of the district attorney child abduction units is that the county where the victimized person resides, or where the agency deprived of custody is located, will be the county which will undertake the handling of the case. In California, the statutes addressing jurisdiction are set forth in Penal Code Sections 279 and 784.5

#### **ISSUE #4C: CONFUSION REGARDING CONFIDENTIALITY LAWS**

**Federal and state confidentiality laws prevent the sharing of information between law enforcement, social service agencies, and schools delaying the recovery of abducted children.**

## **RECOMMENDATION**

Identify and modify federal and state confidentiality laws that create obstacles to the sharing of information to allow law enforcement immediate access to critical information, which would assist in assessing the risks, locating, and recovering missing children.

## **RESULTS**

- The task force determined the enactment of the following California statutes have helped to ameliorate the obstacle of the sharing of information amongst agencies responding and working on child abductions.
- Two statutes allowing district attorneys access to public records that would otherwise be confidential for the purposes of locating abducted children, have been identified:
  - California Family Code Section 17505, in pertinent part states, “All state, county, and local agencies shall cooperate with the district attorney concerning the location, seizure, and recovery of abducted, concealed, or detained children.”
  - California Public Utilities Code Section 588 (see Appendix C) authorizes district attorney investigators to access “telephone, gas, and electric public utilities’ customer information”. That information is limited to full name, date of birth, social security number, address, prior address, forwarding address, place of employment, and date of service instituted, terminated, or suspended by, utility customers to the extent the information is stored within the utility records and computer data bases.”
  - California Education Code Sections 49068.5 - 49068.6 (see Appendix D) address the requirements for schools upon a transfer of a new student to check to see if the child is listed as missing on the bulletins provided by the California Department of Justice.

## **ISSUE #5: REFORM, REVISION, AND IMPLEMENTATION OF CHILD ABDUCTION LAWS ARE NEEDED**

### **ISSUE #5A: UNIFORM VICTIM COMPENSATION ELIGIBILITY FOR ABDUCTED CHILDREN**

**Child abduction victims and their families often need victim compensation for therapy, loss of wages, burial expenses, and more.**

## **RECOMMENDATION**

There is confusion about eligibility for the Victim Compensation Program (VCP) benefits in child abduction cases. Many families fail to apply for these benefits or they do not receive deserved

benefits due to erroneous interpretations of the eligibility criteria by victim assistance center staff. In some instances, it may not be clear an abduction actually occurred (e.g., when there are no witnesses to the abduction, or when the child is a considered runaway), a family abduction case may not have lasted over thirty days, or it may be difficult to establish actual physical or emotional harm once the child is returned.

## **RESULTS**

- Members of the task force participated in the development of proposed legislation that ultimately was chaptered as California Government Code Section 13955 (see Appendix E), providing the eligibility criteria for victim compensation.
- Educational and informational material from the California Victim Compensation and Government Claims Board regarding victim compensation for child abduction victims is being disseminated at the Regional Child Abduction Intervention and Resource Training sessions.

## **FURTHER COURSE OF ACTION**

- The California Victim Compensation and Government Claims Board will include in their victim advocacy training information regarding California Government Code Section 13955(f)(2)(3)(D), (see Appendix E), which in pertinent part states a child is deemed to be the victim of a crime due the violation of California Penal Code Sections 278 or 278.5 (see Appendix B). A child who meets the criteria of ‘victim’ under California Government Code Section 13955 should submit an application as he or she may be eligible for compensation under the Victim Compensation Program (VCP).
- Encourage first responders to debrief child abduction victims to determine what harm and nature of losses might meet the eligibility criteria for VCP benefits. Urge those victims and family members or derivative victims to complete the application for VCP benefits and submit to the local Victim/Witness Assistance Center within the time requirements.
- Propose legislation eliminating, in certain cases, the requirement of a family abduction must last a minimum of 30-calendar days to meet the eligibility requirement for VCP benefits.
- Propose legislation qualifying the left-behind family members for VCP benefits.
- Ensure the McGeorge School of Law, telephone number, 1-800-VICTIMS is publicized, and the referral information regarding victim compensation for child abduction victims is accurate.

## **ISSUE #5B: ONGOING LEGISLATION REVIEW AND ANALYSIS IS NEEDED**

**Ongoing legislative review and analysis is needed to continually update and revise statutes in response to increased occurrences of child abductions.**

## **RECOMMENDATION**

Form a committee to review all statutes pertinent to child abduction issues to ensure that legislation is responsive to the issue.

## **RESULTS**

- The California District Attorney's Association (CDAA) has an ongoing committee which continuously reviews child abduction legislation. The task force will be obtaining information from this committee and coordinating efforts on such legislation.

### **ISSUE #6: LACK OF STATEWIDE MODEL PROTOCOLS**

**Uniform protocols do not exist to address the needs and rights of lawful custodians and child victims in a coordinated, consistent, and expeditious manner.**

**Due to California's geographic location and demographics, many family child abductions result in the taking of children to Mexico. While California prosecutors frequently seek the return of abducted children by invoking the Hague Convention on the Civil Aspects of International Child Abduction, there is no protocol within the California criminal justice system to expeditiously and effectively facilitate the return of the child from Mexico.**

## **RECOMMENDATION**

Develop a protocol for presenting child abduction cases to the Mexican authorities through the California Attorney General's Office in consultation with district attorneys. The protocol should be disseminated to local prosecutors throughout the state and incorporated into the Attorney General's Child Abduction Manual.

## **RESULTS**

- The California Attorney General's Office has developed procedures for presenting child abduction cases to Mexico pursuant to the Hague Convention on the Civil Aspects of International Child Abduction, and recommended practices for district attorney investigators traveling to Mexico to recover abducted children. Members of the California Attorney General's Foreign Prosecution Unit now regularly accompany district attorney investigators when they travel to Mexico to recover abducted children.
- Information about these procedures and practices are shared with district attorney personnel throughout the state. These procedures and practices, once approved, will be included in the next revision of the Attorney General's Child Abduction Manual. These efforts, and the continuing development of relationships between members of the California Attorney General's Office, and local, state, and federal authorities in Mexico, have resulted in increasing the number of abducted children successfully returned to California.

### **ISSUE #7: STATEWIDE MINIMUM STANDARDS**

**There are no statewide minimum standards or suggested protocols for implementing a countywide multidisciplinary response to child abduction.**

## **RECOMMENDATION**

Each county should develop and implement a multidisciplinary protocol for responding to child abduction and reunification.

## **RESULTS**

- The task force developed questionnaires for the purpose of identifying current policies, procedures, and inter-agency practices relating to child abduction. These questionnaires are to be disseminated to all child abduction units within each county district attorney's office, law enforcement agencies, children's protective service agencies, and missing children nonprofit organizations.
- The task force reviewed existing written protocols and guidelines from various agencies including the California Department of Justice, the Federal Bureau of Investigation, National Center for Missing and Exploited Children, and the Dallas Police Department responsible for creating the Amber Alert Program.

## **FURTHER COURSE OF ACTION**

- Disseminate questionnaires to the above stated agencies.
- Follow-up to ensure optimum return of questionnaires.
- Analyze and evaluate information on completed questionnaires.

Develop minimum standards for use in the development of multidisciplinary protocols addressing issues related to child abduction.

- Organize regional/county workshops on how to use the recommended minimum standards to develop a county protocol.
- Provide copies of recommended minimum standards to agencies dealing with child abduction.
- Maintain copies of established county protocols.

## **ISSUE #8: LACK OF RISK ASSESSMENT TOOLS FOR FAMILY ABDUCTIONS**

**A child abducted by a non-family member is generally perceived to be in great danger of harm, triggering an immediate response from law enforcement and the community. In contrast, abductions by a family member are often perceived as presenting low risk of danger to the child, thus delaying an appropriate response. While the dynamics of family abductions are different from stranger abduction dynamics, family abductions may result in great harm to a child. Currently, there are no assessment tools to assist professionals to**



**determine either risk of abduction, or potential of harm to a child once abducted by a family member.**

**Highly emotional custody cases may present an increased abduction risk. An assessment tool designed to assess the risk of the development of an abduction incident would be of value in preventing family abductions through early intervention by professionals. This tool could be designed to include behavioral, personality trait, and situational assessment criteria.**

Once a child is abducted by a family member, first responders need an assessment tool to determine the emergency nature of the abduction based on the potential of harm to the child. This risk assessment tool can ensure an appropriate response to family abduction incidents.

## **RECOMMENDATIONS**

Develop a risk assessment tool designed to prevent incidents of family abduction and disseminate it to appropriate personnel involved in:

- divorce proceedings;
- issuance and enforcement of restraining orders;
- child custody and child support orders;
- contested paternity hearings;
- juvenile, probate, and/or guardianship court actions;
- provisions of social services;
- day care and preschools; and
- education.

## **RESULTS**

- Developed a risk assessment tool for first responders to assess the potential of harm to a child abducted by a family member.
- ***The Child Abduction and Risk of Danger to Child Assessment Checklist tool and Child Abduction First Responding Officer Checklist have been developed by the task force and disseminated at the Child Abduction Intervention and Resource Training sessions throughout California.***

## **FURTHER COURSE OF ACTION**

- Continue to disseminate the Child Abduction and Risk of Danger to Child Assessment Checklist tool and Child Abduction First Responding Officer Checklist;

- Attempt to disseminate the Child Abduction and Risk of Danger to Child Assessment Checklist tool to additional disciplines;
- Revise and enhance the Child Abduction and Risk of Danger to Child Assessment Checklist tool and Child Abduction Responding Officer Checklist; and
- Develop a Family Abduction Prevention Risk Assessment Tool for dissemination to professionals who may be in a position to recognize the potential of and prevent family abduction incidents.

#### **ISSUE #9: MISPERCEPTIONS ABOUT FAMILY ABDUCTIONS NEED TO BE CORRECTED THROUGH TRAINING AND EDUCATION**

Members of the task force are familiar with current training materials; several are faculty for various child abduction training entities. As members shared their own experiences about training, it became evident that the amount and quality of training needs to increase, thereby improving the effectiveness of multidisciplinary responses to reduce the risk and incidence of child abduction.

There is a perception that family child abduction does not pose a significant danger or trauma to the child victim(s). This misconception can impact the timeliness, level, quality, and follow-up services of first responder response when a child is recovered.

#### **ISSUE #9A: TERMS DO NOT REPRESENT TRUE NATURE OF ACTS**

The term “family abduction” does not communicate the true nature of the potential imminent danger or the significant long-term emotional trauma to the abducted child.

#### **ISSUE #9B: POTENTIAL HARM TO CHILD IS MISUNDERSTOOD AND MINIMIZED**

The degree of potential danger to an abducted child must be considered serious during and after the abduction. Psychological and emotional trauma is also a reality.

#### **ISSUE #9C: FAMILY ABDUCTION IS NOT RECOGNIZED AS AN ASPECT OF FAMILY VIOLENCE AND CHILD ABUSE**

Child abduction by a family member is frequently an unrecognized form of family violence used against the other parent.

#### **RECOMMENDATION**

Increased education is needed to reinforce the fact that abduction harms a child’s welfare. Child abduction must be considered child abuse and/or family violence.

#### **RESULTS FOR ISSUES #9A, #9B, AND #9C**

- The Child Abduction Intervention and Resource Training sessions have increased awareness and have assisted in dispelling misconceptions concerning the serious nature of family abductions.
- Other trainings conducted by individual task force members have also increased awareness and have assisted in dispelling misconceptions concerning the serious nature of family abductions.
- The Child Abduction Prevention Projects increased the awareness of children and parents regarding family abductions throughout the state.
- Comprehensive training materials and handouts, addressing the significant nature and consequences of family abduction, have been developed and distributed at training sessions.
- Intensified media coverage surrounding child abductions have assisted in directing more attention to the different categories of child abduction.

## **FURTHER COURSE OF ACTION**

- Recommend the continuation of funding for the Child Abduction Intervention and Resource Training.
- Explore the development of legislation to require mandated reporters to report suspected child abduction.

## **ISSUE #10: INSUFFICIENT RESOURCES**

**Insufficient funding exists for the development of training and public prevention education curriculum.**

## **RECOMMENDATION**

Research and identify funding sources to support training and public prevention education.

## **RESULTS**

- OCJP funded the Child Abuse and Abduction Prevention Program for three years. “Safetysaurus,” a set of prevention education materials for Kindergarten through sixth grade, was developed, implemented, and distributed throughout California. Many children and parents received education and materials on the prevention of child abduction.
- Members of the task force participated in the Child Abduction Prevention and Education Review Committee (CAPE) to develop and provide recommendations for statewide education and prevention programs targeted for children and parents. The committee reviewed education and prevention programs and resources, and produced a Report to the Governor summarizing the information and making recommendations regarding programs and

resources. In an effort to provide prevention and education resources to parents, school districts, and others responsible for safeguarding children, the Governor has directed various state agencies to implement many of the recommendations contained in this report.

## **FURTHER COURSE OF ACTION**

Explore funding opportunities to continue the Child Abuse and Abduction Prevention Program.

### **ISSUE #11: TRAINING FOR PROFESSIONALS**

**Training for a wide range of professionals, such as therapists, educators, parents, judges, and family court service personnel, is needed. Existing training for law enforcement needs revision in content and in implementation. Training needs to be more accessible to patrol officers and new recruits.**

#### **ISSUE #11A: REVISION OF EXISTING TRAINING**

**Existing training for law enforcement tends to focus on either family abductions or non-family abductions, rarely combining the two during the same segment of training.**

### **RECOMMENDATION**

Existing training materials need to be revised to include an emphasis on both family and non-family abduction. Training on each subject should receive equal time, and should include a discussion of risk factors, investigation, and handling of a case. The potential for serious harm and emotional abuse to a child, regardless of the type of abduction, should be emphasized.

## **ISSUE #11B: ACADEMY TRAINING COURSES FOR LAW ENFORCEMENT OFFICERS**

**There is minimal training on child abduction issues provided in the basic academy to law enforcement personnel. Ongoing, updated training in child abduction is generally not part of the Advanced Officer and Supervisor Training curriculum.**

### **RECOMMENDATION**

Law enforcement personnel should be provided specific training on family and non-family abduction in the following regimens: basic academy for new officers; advanced officer in-service training; and supervisor training.

### **RESULTS FOR ISSUES #11A AND #11B**

The information presented to the basic academy and advanced officer training vary by location. Some academies enhance their missing persons training to include family and/or non-family child abduction issues. For example, the San Diego District Attorney's Office is teaching family abduction issues at the regional academy for both basic and advanced officer training.

### **FURTHER COURSE OF ACTION**

The task force needs to survey individual academies to determine the content and amount of family and non-family abduction training being conducted, and to identify the disparities. After surveying the academies, the task force needs to work with the Commission on POST and CDAA to identify the training needs and ensure minimum standards of training for family and non-family abduction issues are being provided.

## **ISSUE #11C: LIMITED TRAINING FOR NON-LAW ENFORCEMENT PROFESSIONALS**

**Courses on child abduction are limited, generally oriented toward law enforcement personnel.**

**Various professionals have regular contact with children and are in a position to notice and report potential child abductions. For example, mandated reporters of suspected child abuse or neglect, as defined at Penal Code Section 11165.7, are required to report suspicions of child abduction as part of the Child Abuse and Neglect Reporting Act (CANRA), but are not adequately trained to do so.**

**Increased training programs, mandated training, public awareness, and prevention campaigns can be beneficial to professionals and the public.**

## RECOMMENDATION

Mandated child abuse reporters have reporting requirements that make suspicion of child abduction a mandated reporting item. These mandated reporters must become familiar with child abduction issues through training. Liaison efforts with state agencies with license and credential responsibilities for those individuals, who through their professions have contact with children, should mandate a minimum number of hours of training in child abduction awareness, risk factors, and prevention. In addition, non-professionals working with children should become familiar with child abduction issues.

California state agencies identified with governing power over a license and credential process include:

- Department of Health Services (health care professionals);
- Department of Social Services (county human service professionals);
- Department of Consumer Affairs (clinical social workers; marriage and family therapists; chemical dependency/alcohol counselors); and
- Department of Education (teachers, classroom aides, preschool staff, and personal day care providers).

The federal organizations identified as having influence over mandated training include:

- American Medical Association (health care professionals);
- American Psychological Association (mental health professionals); and
- National Association of Social Workers (human service professionals).

## RESULTS

The task force will request the Peace Officer Standards and Training (POST), the California District Attorneys Association (CDAA), the California Department of Justice (DOJ), and the California Department of Social Services (CDSS) to participate in the collaborative development of training material for mandated reporters, which includes training on family and non-family child abduction issues.

## ISSUE #11D:PUBLIC AWARENESS AND EDUCATION ARE NEEDED

**The public is not aware of the seriousness of child abduction. While public awareness campaigns have highlighted issues relating to child physical and sexual abuse and the impact on children of family violence, the growing problem of child abduction has not received the same attention.**

## FURTHER COURSE OF ACTION

The development and dissemination of a child abduction brochure and public service announcements for television and radio release would increase public awareness about the risk and consequences of child abduction. Brochures and public service announcements would be the most cost-effective method, reaching the greatest number of people.

## **RESULTS**

Although a child abduction brochure and public service announcements for the media have not yet been developed, the development of these is still a possibility in the near future if funding becomes available. As a way to increase the public awareness about child abduction, the Child Abuse and Abduction Prevention Program projects, with funding from OCJP from 1998 to 2002, were able to develop the preventative education materials “Safetysaurus” for children Kindergarten through sixth grade. “Safetysaurus” was presented by Central California CARES, Southern California CARES, and Vanished Children’s Alliance at various elementary schools and after-school programs statewide.

This report was developed and published to provide a continuing effort to address the issue of child abduction. This is just the beginning. Fortunately, a strong commitment exists to pursue further research in addressing the issue of child abduction, and to help make California a safer place for our children.

## **APPENDIX <sup>A</sup>**

### **California Family Code**

#### **Sections**

**3048**

**3130**

**3131**

**3132**

**3133**

**3134**

**3134.5**



## **Family Code §3048**

(a) Notwithstanding any other provision of law, in any proceeding to determine child custody or visitation with a child, every custody or visitation order shall contain all of the following:

- (1) The basis for the court's exercise of jurisdiction.
- (2) The manner in which notice and opportunity to be heard were given.
- (3) A clear description of the custody and visitation rights of each party.
- (4) A provision stating that a violation of the order may subject the party in violation to civil or criminal penalties, or both.
- (5) Identification of the country of habitual residence of the child or children.

(b) (1) In cases in which the court becomes aware of facts which may indicate that there is a risk of abduction of a child, the court shall, either on its own motion or at the request of a party, determine whether measures are needed to prevent the abduction of the child by one parent. To make that determination, the court shall consider the risk of abduction of the child, obstacles to location, recovery, and return if the child is abducted, and potential harm to the child if he or she is abducted. To determine whether there is a risk of abduction, the court shall consider the following factors:

- (A) Whether a party has previously taken, enticed away, kept, withheld, or concealed a child in violation of the right of custody or of visitation of a person, regardless or whether the party acted in compliance with Section 278.7 of the Penal Code or not.
- (B) Whether a party has previously threatened to take, entice away, keep, withhold, or conceal a child in violation of the right of custody or of visitation of a person.
- (C) Whether a party lacks strong ties to this state.
- (D) Whether a party has strong familial, emotional, or cultural ties to another state or country, including foreign citizenship. This factor shall be considered only if evidence exists in support of another factor specified in this section.
- (E) Whether a party has no financial reason to stay in this state, including whether the party is unemployed, is able to work anywhere, or is financially independent.
- (F) Whether a party has engaged in planning activities that would facilitate the removal of a child from the state, including quitting a job, selling his or her primary

residence, terminating a lease, closing a bank account, liquidating other assets, hiding or destroying documents, applying for a passport, or applying to obtain a birth certificate or school or medical records.

(G) Whether a party has a history of domestic violence, lack of parental cooperation, or child abuse.

(H) Whether a party has a criminal record.

(2) If the court makes a finding there is a need for preventative measures after considering the factors listed in paragraph (1), the court shall consider taking one or more of the following measures to prevent the abduction of the child:

(A) Ordering supervised visitation.

(B) Requiring a parent to post a bond in an amount sufficient to serve as a financial deterrent to abduction, the proceeds of which may be used to offset the cost of recovery of the child in the event there is an abduction.

(C) Restricting the right of the custodial or non-custodial parent to remove the child from the county, the state, or the country.

(D) Restricting the right of the custodial parent to relocate with the child, unless the custodial parent provides advance notice to, and obtains the written agreement of, the non-custodial parent, or obtains the approval of the court, before relocating with the child.

(E) Requiring the surrender of passports and other travel documents.

(F) Prohibiting a parent from applying for a new or replacement passport for the child.

(G) Requiring a parent to notify a relevant foreign consulate or embassy of passport restrictions and to provide the court with proof of that notification.

(H) Requiring a party to register a California order in another state as a prerequisite to allowing a child to travel to that state for visits, or to obtain an order from another country containing terms identical to the custody and visitation order issued in the United States (recognizing that these orders may be modified or enforced pursuant to the laws of the other country), as a prerequisite to allowing a child to travel to that county for visits.

(I) Obtaining assurances that a party will return from foreign visits by requiring the traveling parent to provide the court or the other parent or guardian with any of the following:

(i) The travel itinerary of the child.

(ii) Copies of round trip airline ticket.

- (iii) A list of addresses and telephone numbers where the child can be reached at all times.
  - (iv) An open airline ticket for the left-behind parent in case the child is not returned.
  - (J) Including provisions in the custody order to facilitate use of the Uniform Child Custody Jurisdiction and Enforcement Act (Part 3 commencing with Section 3400 and the Hague Convention on the Civil Aspects of International Child Abduction (implemented pursuant to 42U.S.C. Sec. 11601 et seq.), such as identifying California as the home state of the child or otherwise defining the basis for the California court's exercise of jurisdiction under Part 3 (commencing with Section 3400), identifying the United States as the country of habitual residence of the child pursuant to the Hague Convention, defining custody rights pursuant to the Hague Convention, obtaining the express agreement of the parents that the United States is the country of habitual residence of the child, or that California or the United States is the most appropriate forum for addressing custody and visitation orders.
  - (K) Authorizing the assistance of law enforcement.
- (3) If the court imposes any or all of the conditions listed in paragraph (2), those conditions shall be specifically noted on the minute order of the court proceedings.
- (4) If the court determines there is a risk of abduction that is sufficient to warrant the application of one or more of the prevention measures authorized by this section, the court shall inform the parties of the telephone number and address of the Child Abduction Unit in the office of the district attorney in the county where the custody or visitation order is being entered.
- (c) The Judicial Council shall make the changes to its child custody order forms that are necessary for the implementation of subdivision (b). This subdivision shall become operative on July 1, 2003.

If a petition to determine custody of a child has been filed in a court of competent jurisdiction, or if a temporary order pending determination of custody has been entered in accordance with Chapter 3 (commencing with Section 3060), and the whereabouts of a party in possession of the child are not known, or there is reason to believe that the party may not appear in the proceedings although ordered to appear personally with the child pursuant to Section 3411, the district attorney shall take all actions necessary to locate the party and the child and to procure compliance with the order to appear with the child for purposes of adjudication of custody. The petition to determine custody may be filed by the district attorney.

### **Family Code §3131**

If a custody or visitation order has been entered by a court of competent jurisdiction and the child is taken or detained by another person in violation of the order, the district attorney shall take all actions necessary to locate and return the child and the person who violated the order and to assist in the enforcement of the custody or visitation order or other order of the court by use of an appropriate civil or criminal proceeding.

### **Family Code §3132**

In performing the functions described in Sections 3130 and 3131, the district attorney shall act on behalf of the court and shall not represent any party to the custody proceedings.

### **Family Code §3133**

If the district attorney represents to the court, by a written declaration under penalty of perjury, that a temporary custody order is needed to recover a child who is being detained or concealed in violation of a court order or a parent's right to custody, the court may issue an order, placing temporary sole physical custody in the parent or person recommended by the district attorney to facilitate the return of the child to the jurisdiction of the court, pending further hearings. If the court determines that it is not in the best interest of the child to place temporary sole physical custody in the parent or person recommended by the district attorney, the court shall appoint a person to take charge of the child and return the child to the jurisdiction of the court.

### **Family Code §3134**

(a) When the district attorney incurs expenses pursuant to this chapter, including expenses incurred in a sister state, payment of the expenses may be advanced by the county subject to reimbursement by the state, and shall be audited by the Controller and paid by the State Treasury according to law.

(b) The court in which the custody proceeding is pending or which has continuing jurisdiction shall, if appropriate, allocate liability for the reimbursement of actual expenses incurred by the district attorney to either or both parties to the proceedings, and that allocation shall constitute a

judgment for the state for the funds advanced pursuant to this section. The county shall take reasonable action to enforce that liability and shall transmit all recovered funds to the state.

### **Family Code §3134.5**

- (a) Upon request of the district attorney, the court may issue a protective custody warrant to secure the recovery of an unlawfully detained or concealed child. The request by the district attorney shall include a written declaration under penalty of perjury that a warrant for the child is necessary in order for the district attorney to perform the duties described in Sections 3130 and 3131. The protective custody warrant for the child shall contain an order that the arresting agency shall place the child in protective custody, or return the child as directed by the court. The protective custody warrant may be served in any county in the same manner as a warrant of arrest and may be served at any time of the day or night.
  
- (b) Upon a declaration of the district attorney that the child has been recovered or that the warrant is otherwise no longer required, the court may dismiss the warrant without further court proceedings.

## **APPENDIX B**

### **California Penal Code**

#### **Sections**

**207**

**277**

**278**

**278.5**

**278.6**

**278.7**

**279**

**279.1**

**279.5**

**279.6**

**280**

**784.5**

## **Penal Code §207**

- (a) Every person who forcibly, or by any other means of instilling fear, steals or takes, or holds, detains, or arrests any person in this state, and carries the person into another country, state, or county, or into another part of the same county, is guilty of kidnapping.
- (b) Every person, who for the purpose of committing any act defined in Section 288, hires, persuades, entices, decoys, or seduces by false promises, misrepresentations, or the like, any child under the age of 14 years to go out of this country, state, or county, or into another part of the same county, is guilty of kidnapping.
- (c) Every person who forcibly, or by any other means of instilling fear, takes or holds, detains, or arrests any person, with a design to take the person out of this state, without having established a claim, according to the laws of the United States, or of this state, or who hires, persuades, entices, decoys, or seduces by false promises, misrepresentations, or the like, any person to go out of this state, or to be taken or removed there from, for the purpose and with the intent to sell that person into slavery or involuntary servitude, or otherwise to employ that person for his or her own use, or to the use of another, without the free will and consent of that persuaded person, is guilty of kidnapping.
- (d) Every person who, being out of this state, abducts or takes by force or fraud any person contrary to the law of the place where that act is committed, and brings, sends, or conveys that person within the limits of this state, and is afterwards found within the limits thereof, is guilty of kidnapping.
- (e) Subdivisions (a) to (d), inclusive, do not apply to any of the following:
  - (1) To any person who steals, takes, entices away, detains, conceals, or harbors any child under the age of 14 years, if that act is taken to protect the child from danger of imminent harm.
  - (2) To any person acting under Section 834 or 837.

## **Penal Code §277**

The following definitions apply for the purposes of this chapter:

- (a) "Child" means a person under the age of 18 years.
- (b) "Court order" or "custody order" means a custody determination decree, judgment, or order issued by a court of competent jurisdiction, whether permanent or temporary, initial or modified, that affects the custody or visitation of a child, issued in the context of a custody proceeding. An order, once made, shall continue in effect until it expires, is modified, is rescinded, or terminates by operation of law.
- (c) "Custody proceeding" means a proceeding in which a custody determination is an issue, including, but not limited to, an action for dissolution or separation, dependency,



guardianship, termination of parental rights, adoption, paternity, except actions under Section 11350 or 11350.1 of the Welfare and Institutions Code, or protection from domestic violence proceedings, including an emergency protective order pursuant to Part 3 (commencing with Section 6240) of Division 10 of the Family Code.

(d) "Lawful custodian" means a person, guardian, or public agency having a right to custody of a child.

(e) A "right to custody" means the right to the physical care, custody, and control of a child pursuant to a custody order as defined in subdivision (b) or, in the absence of a court order, by operation of law, or pursuant to the Uniform Parentage Act contained in Part 3 (commencing with Section 7600) of Division 12 of the Family Code. Whenever a public agency takes protective custody or jurisdiction of the care, custody, control, or conduct of a child by statutory authority or court order, that agency is a lawful custodian of the child and has a right to physical custody of the child. In any subsequent placement of the child, the public agency continues to be a lawful custodian with a right to physical custody of the child until the public agency's right of custody is terminated by an order of a court of competent jurisdiction or by operation of law.

(f) In the absence of a court order to the contrary, a parent loses his or her right to custody of the child to the other parent if the parent having the right to custody is dead, is unable or refuses to take the custody, or has abandoned his or her family. A natural parent whose parental rights have been terminated by court order is no longer a lawful custodian and no longer has a right to physical custody.

(g) "Keeps" or "withholds" means retains physical possession of a child whether or not the child resists or objects.

(h) "Visitation" means the time for access to the child allotted to any person by court order.

(i) "Person" includes, but is not limited to, a parent or an agent of a parent.

(j) "Domestic violence" means domestic violence as defined in Section 6211 of the Family Code.

(k) "Abduct" means take, entice away, keep, withhold, or conceal.

## **Penal Code §278**

Every person, not having a right to custody, who maliciously takes, entices away, keeps, withholds, or conceals any child with the intent to detain or conceal that child from a lawful custodian shall be punished by imprisonment in a county jail not exceeding one year, a fine not exceeding one thousand dollars (\$1,000), or both that fine and imprisonment, or by imprisonment in the state prison for two, three, or four years, a fine not exceeding ten thousand dollars (\$10,000), or both that fine and imprisonment.

## **Penal Code §278.5**

- (a) Every person who takes, entices away, keeps, withholds, or conceals a child and maliciously deprives a lawful custodian of a right to custody, or a person of a right to visitation, shall be punished by imprisonment in a county jail not exceeding one year, a fine not exceeding one thousand dollars (\$1,000), or both that fine and imprisonment, or by imprisonment in the state prison for 16 months, or two or three years, a fine not exceeding ten thousand dollars (\$10,000), or both that fine and imprisonment.
- (b) Nothing contained in this section limits the court's contempt power.
- (c) A custody order obtained after the taking, enticing away, keeping, withholding, or concealing of a child does not constitute a defense to a crime charged under this section.

## **Penal Code §278.6**

- (a) (a) At the sentencing hearing following a conviction for a violation of Section 278 or 278.5, or both, the court shall consider any relevant factors and circumstances in aggravation, including, but not limited to, all of the following:

The child was exposed to a substantial risk of physical injury or illness.

The defendant inflicted or threatened to inflict physical harm on a parent or lawful custodian of the child or on the child at the time of or during the abduction.

The defendant harmed or abandoned the child during the abduction.

The child was taken, enticed away, kept, withheld, or concealed outside the United States.

The child has not been returned to the lawful custodian.

The defendant previously abducted or threatened to abduct the child.

The defendant substantially altered the appearance or the name of the child.

- (8) The defendant denied the child appropriate education during the abduction.

- (9) The length of the abduction.
- (10) The age of the child.
- (b) At the sentencing hearing following a conviction for a violation of Section 278 or 278.5, or both, the court shall consider any relevant factors and circumstances in mitigation, including, but not limited to, both of the following:
  - (1) The defendant returned the child unharmed and prior to arrest or issuance of a warrant for arrest, whichever is first.
  - (2) The defendant provided information and assistance leading to the child's safe return.
- (d) (c) In addition to any other penalties provided for a violation of Section 278 or 278.5, a court shall order the defendant to pay restitution to the district attorney for any costs incurred in locating and returning the child as provided in Section 3134 of the Family Code, and to the victim for those expenses and costs reasonably incurred by, or on behalf of, the victim in locating and recovering the child. An award made pursuant to this section shall constitute a final judgment and shall enforceable as such.

### **Penal Code §278.7**

- (a) Section 278.5 does not apply to a person with a right to custody of a child who, with good faith and reasonable belief that the child, if left with the other person, will suffer immediate bodily injury or emotional harm, takes, entices away, keeps, withholds, or conceals that child.
- (b) Section 278.5 does not apply to a person with a right to custody of a child who has been a victim of domestic violence who, with a good faith and reasonable belief that the child, if left with the other person, will suffer immediate bodily injury or emotional harm, takes, entices away, keeps, withholds, or conceals that child. "Emotional harm" includes having a parent who has committed domestic violence against the parent who is taking, enticing away, keeping, withholding, or concealing the child.
- (c) The person who takes, entices away, keeps, withholds, or conceals a child shall do all of the following:
  - (1) Within a reasonable time frame from the taking, enticing away, keeping, withholding, or concealing, make a report to the office of the district attorney of the county where the child resided before the action. The report shall include the name of the person, the current address and telephone number of the child and the person, and the reasons the child was taken, enticed away, kept, withheld, or concealed.
  - (2) Within a reasonable time from the taking, enticing away, keeping, withholding, or concealing, commence a custody proceeding in a court of competent jurisdiction consistent with the federal Parental Kidnapping Prevention Act (Section 1738A, Title 28, United States Code) or the Uniform Child Custody Jurisdiction Act (Part 3 (commencing with Section 3400) of Division 8 of the Family Code).

- (3) Inform the district attorney's office of any change of address or telephone number of the person and the child.
- (d) For the purposes of this article, a reasonable time within which to make a report to the district attorney's office is at least 10 days and a reasonable time to commence a custody proceeding is at least 30 days. This section shall not preclude a person from making a report to the district attorney's office or commencing a custody proceeding earlier than those specified times.
- (e) The address and telephone number of the person and the child provided pursuant to this section shall remain confidential unless released pursuant to state law or by a court order that contains appropriate safeguards to ensure the safety of the person and the child.

### **Penal Code §279**

A violation of Section 278 or 278.5 by a person who was not a resident of, or present in, this state at the time of the alleged offense is punishable in this state, whether the intent to commit the offense is formed within or outside of this state, if any of the following apply:

- (a) The child was a resident of, or present at the time the child was taken, enticed away, kept, withheld, or concealed.
- (b) The child thereafter is found in this state.
- (c) A lawful custodian or a person with a right to visitation is a resident of this state at the time the child was taken, enticed away, kept, withheld, or concealed.

### **Penal Code §279.1**

The offenses enumerated in Sections 278 and 278.5 are continuous in nature, and continue for as long as the minor child is concealed or detained.

### **Penal Code §279.5**

When a person is arrested for an alleged violation of Section 278 or 278.5, the court, in setting bail, shall take into consideration whether the child has been returned to the lawful custodian, and if not, shall consider whether there is an increased risk that the child may not be returned, or the defendant may flee the jurisdiction, or, by flight or concealment, evade the authority of the court.

### **Penal Code §279.6**

- (a) A law enforcement officer may take a child into protective custody under any of the following circumstances:

- (1) It reasonably appears to the officer that a person is likely to conceal the child, flee the jurisdiction with the child, or, by flight or concealment, evade the authority of the court.
  - (2) There is no lawful custodian available to take custody of the child.
  - (3) There are conflicting custody orders or conflicting claims to custody and the parties cannot agree which party should take custody of the child.
  - (4) The child is an abducted child.
- (b) When a law enforcement officer takes a child into protective custody pursuant to this section, the officer shall do one of the following:

Release the child to the lawful custodian of the child, unless it reasonably appears that the release would cause the child to be endangered, abducted, or removed from the jurisdiction.

Obtain an emergency protective order pursuant to Part 3 (commencing with Section 6240) of Division 10 of the Family Code ordering placement of the child with an interim custodian who agrees in writing to accept interim custody.

- (3) Release the child to the social services agency responsible for arranging shelter or foster care.
  - (4) Return the child as ordered by a court of competent jurisdiction.
- (c) Upon the arrest of a person for a violation of Section 278 or 278.5, a law enforcement officer shall take possession of an abducted child who is found in the company of, or under the control of, the arrested person and deliver the child as directed in subdivision (b).
- (d) Notwithstanding any other law, when a person is arrested for an alleged violation of Section 278 or 278.5 the court shall, at the time of the arraignment or thereafter, order that the child shall be returned to the lawful custodian by or on a specific date, or that the person show cause on that date why the child has not been returned as ordered. If conflicting custodial orders exist within this state, or between this state and a foreign state, the court shall set a hearing within five court days to determine which court has jurisdiction under the laws of this state, and determine which state has subject matter jurisdiction to issue a custodial order under the laws of this state, the Uniform Child Custody Jurisdiction Act (Part 3 (commencing with Section 3400) of Division 8 of the Family Code), or federal law, if applicable. At the conclusion of the hearing, or if the child has not been returned as ordered by the court at the time of arraignment, the court shall enter an order as to which custody order is valid and is to be enforced. If the child has not been returned at the

conclusion of the hearing, the court shall set a date within a reasonable time by which the child shall be returned to the lawful custodian, and order the defendant to comply by this date, or to show cause on that date why he or she has not returned the child as directed. The court shall only enforce its order, or any subsequent orders for the return of the child, under subdivision (a) of Section 1219 of the Code of Civil Procedure, to ensure that the child is promptly placed with the lawful custodian. An order adverse to either the prosecution or defense is reviewable by a writ of mandate or prohibition addressed to the appropriate court.

## **Penal Code §280**

Every person who willfully causes or permits the removal or concealment of any child in violation of Section 8713, 8803, or 8910 of the Family Code shall be punished as follows:

- (a) By imprisonment in a county jail for not more than one year if the child is concealed within the county in which the adoption proceeding is pending or in which the child has been placed for adoption, or is removed from that county to a place within this state.
- (b) By imprisonment in the state prison, or by imprisonment in a county jail for not more than one year, if the child is removed from that county to a place outside of this state.

## **Penal Code §784.5**

The jurisdiction of a criminal action for a violation of Section 277, 278, or 278.5 shall be in any one of the following jurisdictional territories:

- (a) Any jurisdictional territory in which the victimized person resides, or where the agency deprived of custody is located, at the time of the taking or deprivation.
- (b) The jurisdictional territory in which the minor child was taken, detained, or concealed.
- (c) The jurisdictional territory in which the minor child is found.

When the jurisdiction lies in more than one jurisdictional territory, the district attorneys concerned may agree which of them will prosecute the case.

# **APPENDIX C**

## **California Public Utilities Code**

### **Section**

**588**

## **Public Utilities Code §588**

- (a) Notwithstanding any regulation, tariff, opinion, or interim opinion of the Public Utilities Commission, or any other provision of law, an inspector or investigator, as defined in Section 830.1 of the Penal Code, who is employed in the office of a district attorney may request and shall receive from telephone, gas, and electric public utilities customer information limited to the full name, date of birth, social security number, address, prior address, forwarding address, place of employment, and date of service instituted, terminated, or suspended by, utility customers to the extent the information is stored within the utility records and computer data bases. However, in no case shall information be released disclosing customer usage of the services provided by the utility without a court order or subpoena.
- (b) In order to protect the privacy interest of utility customers, a request to a public utility for customer information pursuant to this section shall meet the following requirements:
  - (1) The requested information is relevant and material to an investigation pursuant to Sections 3130, 3131, 3132, 3133, and 3134 of the Family Code concerning the kidnapping, abduction, concealment, detention, or retention of a minor child and that the inspector or investigator requesting the information has a reasonable, good faith belief that the utility customer information is needed to assist the inspector or investigator in the location or recovery of a minor child or abductor, coconspirator or aider and abettor of the continuing crime of child abduction or concealment.
  - (2) Only inspectors and investigators as defined in Section 830.1 of the Penal Code, who are employed in the office of a district attorney whose names have been submitted to the utility in writing by a district attorney's office, may request and receive customer and customer service information pursuant to this section. Each district attorney's office shall ensure that each public utility has at all times a current list of the names of inspectors and investigators authorized to request and receive customer and customer service information. Each district attorney's office shall immediately notify the utility in writing and withdraw the names of inspectors and investigators from the authorized list who no longer have a need for the access.
  - (3) This section does not authorize inspectors and investigators to obtain any utility customer information, other than that authorized by this section, without proper service of process as required by law.
  - (4) The district attorney's office requesting and receiving utility information shall ensure its confidentiality. At no time shall any information obtained pursuant to this section be disclosed or used for any purpose other than to assist in the location or recovery of a person or persons specified in paragraph (1).
  - (5) The inspector or investigator requesting utility information authorized for release by this section shall make a record on a form created and maintained by the district



attorney's office, which shall include the name of the utility customer about whom the inquiry was made, the name of the inspector or investigator making the inquiry, the date of inquiry, the name of the utility, the utility employee to whom the request was made, and the information that was requested and received.

- (6) The inspector or investigator requesting information pursuant to this section shall prepare and sign, under penalty of perjury, a written affidavit of probable cause, which shall be contained on a form created by the Attorney General's office in consultation with telephone, gas, and electric utilities. The form shall be retained by the utility for a period of one year and shall contain a statement of all the facts known to the inspector or investigator that support the existence of all of the requirements of this section. The affidavit shall also contain a statement of exigent circumstances, explaining why the inspector or investigator could not seek and obtain a search warrant, court order, or other court process for the production of the information sought.
- (c) No public utility, or official or employee thereof, shall be subject to criminal or civil liability for the release of customer information in reasonable reliance on an affidavit appearing on its face to be valid, and which was submitted by a person whose name appears on the current authorization list, as required in paragraph (2) of subdivision (b). However, any person who willfully violates any provision of this section is guilty of a misdemeanor, pursuant to Section 2112.5.
- (d) The utility receiving the request for customer information may charge the requesting district attorney's office a reasonable fee for the search and release of the requested information and for the storage of the required forms.

# **APPENDIX D**

## **California Education Code**

**Sections**

**49068.5**

**49068.6**

### **Education Code §49068.5**

Upon the initial enrollment of a pupil in a public or private elementary school; or whenever an elementary school pupil (a) transfers from one school district to another, (b) transfers to an elementary school within the same district, (c) transfers from one private elementary school to another, (d) transfers from a private elementary school to a public elementary school, or (e) transfers from a public elementary school to a private elementary school, the principal of the school that the child enters or to which he or she transfers is urged to check to see if the child resembles a child listed as missing by the bulletins provided by the Department of Justice pursuant to Section 14201 of the Penal Code.

### **Education Code §49068.6**

- (a) Any law enforcement agency responsible for the investigation of a missing child shall inform the school district, other local educational agency, or private school, in which the child is enrolled, that the child is missing. The notice shall be in writing, shall include a photograph of the child if a photograph is available, and shall be given within 10 days of the child's disappearance.
- (b) Every school notified pursuant to this section shall place a notice that the child has been reported missing on the front of each missing child's school record. For public schools this shall be in addition to the posting requirements set forth in Section 38139.
- (c) Local law enforcement agencies may establish a process for informing local schools about abducted children pursuant to this section.
- (d) If a school receives a record inquiry or request from any person or entity for a missing child about whom the school has been notified pursuant to this section, the school shall immediately notify the law enforcement authorities who informed the school of the missing child's status.

# **APPENDIX E**

## **California Government Code**

### **Section**

**13955**

## **Government Code §13955**

Except as provided in Section 13956, a person shall be eligible for compensation when all of the following requirements are met:

- (a) The person for whom compensation is being sought is any of the following:
  - (1) A victim.
  - (2) A derivative victim.
  - (3) A person who is entitled to reimbursement for funeral, burial, or crime scene cleanup expenses pursuant to subdivision (i) of Section 13957.
- (b) Either of the following conditions is met:
  - (1) The crime occurred within the State of California, whether or not the victim is a resident of the State of California. This paragraph shall apply only during those time periods during which the board determines that federal funds are available to the State of California for the compensation of victims of crime.
  - (2) Whether or not the crime occurred within the State of California, the victim was any of the following:
    - (A) A resident of the State of California.
    - (B) A member of the military stationed in California.
    - (C) A family member living with a member of the military stationed in California.
- (c) If compensation is being sought for a derivative victim, the derivative victim is a resident of California, or resident of another state, who is any of the following:
  - (1) At the time of the crime was the parent, grandparent, sibling, spouse, child, or grandchild of the victim.
  - (2) At the time of the crime was living in the household of the victim.
  - (3) At the time of the crime was a person who had previously lived in the household of the victim for a period of not less than two years in a relationship substantially similar to a relationship listed in paragraph (1).
  - (4) Is another family member of the victim, including, but not limited to, the victim's fiancé or fiancée, and who witnessed the crime.

- (5) Is the primary caretaker of a minor victim, but was not the primary caretaker at the time of the crime.
- (d) The application is timely pursuant to Section 13953.
- (e)
  - (1) Except as provided in paragraph (2), the injury or death was a direct result of a crime.
  - (2) Notwithstanding paragraph (1), no act involving the operation of a motor vehicle, aircraft, or water vehicle that results in injury or death constitutes a crime for the purposes of this chapter, except when the injury or death from such an act was any of the following:
    - (A) Intentionally inflicted through the use of a motor vehicle, aircraft, or water vehicle.
    - (B) Caused by a driver who fails to stop at the scene of an accident in violation of Section 20001 of the Vehicle Code.
    - (C) Caused by a person who is under the influence of any alcoholic beverage or drug.
    - (D) Caused by a driver of a motor vehicle in the immediate act of fleeing the scene of a crime in which he or she knowingly and willingly participated.
    - (E) Caused by a person who commits vehicular manslaughter in violation of subdivision (c) of Section 192 or Section 192.5 of the Penal Code.
- (f) As a direct result of the crime, the victim or derivative victim sustained one or more of the following:
  - (1) Physical injury. The board may presume a child who has been the witness of a crime of domestic violence has sustained physical injury. A child who resides in a home where a crime or crimes of domestic violence have occurred may be presumed by the board to have sustained physical injury, regardless of whether the child has witnessed the crime.
  - (2) Emotional injury and a threat of physical injury.
  - (3) Emotional injury, where the crime was a violation of any of the following provisions:
    - (A) Section 261, 262, 271, 273a, 273d, 285, 286, 288, 288a, 288.5, or 289, or subdivision (b) or (c) of Section 311.4, of the Penal Code.
    - (B) Section 270 of the Penal Code, where the emotional injury was a result of conduct other than a failure to pay child support, and criminal charges were filed.
    - (C) Section 261.5 of the Penal Code, and criminal charges were filed.

(D) Section 278 or 278.5 of the Penal Code, where the deprivation of custody as described in those sections has endured for 30 calendar days or more. For purposes of this paragraph, the child, and not the non-offending parent or other caretaker, shall be deemed the victim.

(g) The injury or death has resulted or may result in pecuniary loss within the scope of compensation pursuant to Sections 13957 to 13957.9, inclusive.